

Appellant submitted an October 18, 2008 Form CA-17 duty status report, which related his account that he experienced a sharp pain in his low back while walking on October 16, 2008 and provided a diagnosis of lumbar strain. The form contains an illegible physician's signature. A box was checked indicating that appellant's injury corresponded with the description he provided.

On October 23, 2008 the Office advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. It asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days.

In an October 16, 2008 report, received by the Office on October 24, 2008, Dr. Bert Ventura, a chiropractor, related appellant's history of injury and stated findings on examination. He noted that appellant had complaints of low back pain and soreness but denied any numbness, tingling or radiation. Dr. Ventura advised that appellant's symptoms were exacerbated by bending, standing or squatting; he stated that appellant was not in acute distress and diagnosed lumbar strain.¹

In an October 22, 2008 report, received by the Office on October 29, 2008, Dr. Chander E. Devaraj, a Board-certified family practitioner, diagnosed lumbosacral strain. He stated that appellant was feeling better and experiencing improvement in the pattern of symptoms due to a regimen of physical therapy. Dr. Devaraj rated appellant's pain at a four on a scale of one to ten. He advised that appellant had some tenderness of the right lumbosacral spine at the L5-S1 level and recommended that he remain on modified duty.

In a report dated October 23, 2008, received by the Office on October 31, 2008, Dr. Devaraj reiterated that appellant's condition was improving with medication and physical therapy. He listed findings on examination and noted that appellant was working within his restrictions. Dr. Devaraj reiterated that appellant had a lumbar strain but was not in acute distress.

By decision dated November 25, 2008, the Office denied appellant's claim, finding that he failed to submit sufficient medical evidence to establish that he sustained a low back injury in the performance of duty on October 16, 2008.²

On March 26, 2009 appellant requested reconsideration. He submitted an October 16, 2008 work accident form report from his insurance carrier and an undated copy of his letter carrier position description, which the Office received on April 1, 2009. Appellant resubmitted medical evidence previously of record.

¹ The Office also received reports dated October 20 to 23, 2008 from Richard Murray, a physical therapist.

² Effective November 19, 2008, the Board's *Rules of Procedure* require that an appeal be filed within 180 days of an Office decision. 20 C.F.R. § 501.3(e).

By decision dated May 13, 2009, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require the Office to review its prior decision.

LEGAL PRECEDENT

Under 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not previously considered by the Office; or by constituting relevant and pertinent evidence not previously considered by the Office.³ Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.⁴

ANALYSIS

The Office accepted that appellant experienced lower back pain while carrying a mail satchel on October 16, 2008. It denied appellant's claim because he had not established that the employment incident caused a personal injury by probative medical evidence.⁵ Appellant thereafter requested reconsideration.

In denying appellant's request for reconsideration, appellant did not show that the Office erroneously applied or interpreted a specific point of law or advance a relevant legal argument not previously considered by the Office. The evidence submitted is not pertinent to the issue on appeal. Appellant submitted an October 16, 2008 insurance accident form report and an undated copy of his job description. The Board has held that the submission of evidence which does not address the particular issue involved in the case does not constitute a basis for reopening the claim.⁶ Moreover, appellant did not submit any new medical evidence which addresses the relevant issue of whether he sustained a lower back condition in the performance of duty on October 16, 2008. The medical reports appellant submitted were previously considered by the Office in the decision denying his claim. This evidence is cumulative and duplicative of that of record.⁷ Appellant's reconsideration request failed to show that the Office erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by the Office. The Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

³ 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

⁴ *Howard A. Williams*, 45 ECAB 853 (1994).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *See David J. McDonald*, 50 ECAB 185 (1998).

⁷ *See Patricia G. Aiken*, 57 ECAB 441 (2006).

CONCLUSION

The Board finds that the Office properly refused to reopen appellant's case for reconsideration on the merits of his claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: March 19, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board